

# ARKANSAS SUPREME COURT

No. CR 09-279

JAMES LORENZO WILLIAMS  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered May 28, 2009

PRO SE MOTIONS FOR TRANSCRIPT  
AT PUBLIC EXPENSE AND  
EXTENSION OF BRIEF TIME  
[CIRCUIT COURT OF UNION  
COUNTY, CR 2007-133, HON. CAROL  
C. ANTHONY, JUDGE]

APPEAL DISMISSED; MOTIONS  
MOOT.

## PER CURIAM

In 2007, appellant James Lorenzo Williams entered a plea of guilty to theft by receiving, possession of a controlled substance (cocaine) and being a felon in possession of firearms. In exchange for appellant's guilty plea, the appellee State agreed to enter a *nolle prosequi* to charges of aggravated robbery, residential burglary, second-degree battery and an enhancement for use of a firearm. The appellee also agreed to reduce the severity of two of the original charges. Appellant was sentenced as a habitual offender to an aggregate term of 720 months' imprisonment.

In May 2008, appellant filed in the trial court a petition to correct an illegal sentence pursuant to Arkansas Code Annotated § 16-90-111 (1987). The trial court denied and dismissed the petition with prejudice. On June 11, 2008, appellant timely filed a notice of appeal from the order. No record was tendered to this court in that appeal.

In January 2009, appellant filed another petition to correct an illegal sentence pursuant to section 16-90-111. The trial court, incorporating by reference the rationale set forth in the order that

dismissed the May 2008 petition, denied and dismissed the 2009 petition. Appellant timely filed a pro se notice of appeal from that order and has lodged the instant appeal here.

Now before us are appellant's pro se motions for a transcript of the sentencing hearing at public expense and for an extension of time to file his brief-in-chief. As appellant could not be successful on appeal, the appeal is dismissed and the motions are moot. An appeal from an order that denied a petition for postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Womack v. State*, 368 Ark. 341, 245 S.W.3d 154 (2006) (per curiam).

Section 16-90-111 has been superseded to the extent that it conflicts with the time limitations for postconviction relief under Arkansas Rule of Criminal Procedure Rule 37.1. *State v. Wilmoth*, 369 Ark. 346, 255 S.W.3d 419 (2007). As appellant entered guilty pleas to the criminal charges filed against him, he was required to seek relief under this statute within ninety days of the date that the judgment was entered. Ark. R. Crim. P. 37.2(c); *State v. Wilmoth, supra*. Appellant's 2009 petition was filed more than one year after the judgment was entered in this case and was therefore not timely filed.

Appeal dismissed; motions moot.